

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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<b>In re:</b>	§	
	§	
<b>DEEP MARINE HOLDINGS, INC.,</b>	§	<b>Case No. 09-39313</b>
<b>et al.</b>	§	
	§	
<b>Debtors.</b>	§	<b>Jointly Administered Chapter 11</b>
	§	

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<b>DEEP MARINE HOLDINGS, INC.,</b>	§	
<b>and DEEP MARINE TECHNOLOGY</b>	§	
<b>INCORPORATED</b>	§	
	§	
<b>Plaintiffs,</b>	§	
	§	
<b>v.</b>	§	<b>Adversary No. 10-3026</b>
	§	
<b>FLI DEEP MARINE LLC, BRESSNER</b>	§	
<b>PARTNERS, LTD., LOGAN LANGBERG,</b>	§	
<b>HARLEY LANGBERG, and DEEPWORK,</b>	§	
<b>INC.</b>	§	
	§	
<b>Defendants.</b>	§	

**MOTION OF PAUL MCKIM FOR  
ENTRY OF ORDER REGARDING SUBPOENA**

TO THE HONORABLE MARVIN ISGUR,  
UNITED STATES BANKRUPTCY JUDGE:

Third-Party Paul McKim ("McKim"), files his Motion for Entry of Order Regarding Subpoena (the "Motion") and respectfully states as follows:

1. On February 3, 2010, Defendants FLI Deep Marine LLC, Bressner Partners, LTD., Logan Langberg, and Harley Langberg issued a subpoena to McKim seeking production of the 2009 report of the Special Committee of Deep Marine Holdings, Inc. and/or Deep Marine Technology Incorporated ("SLC Report") and any and all documents and communications

related to the Special Committee's investigation and report. The subpoena is attached as Exhibit A.

2. McKim seeks entry of an order regarding the subpoena directing McKim as to the disclosure of the requested materials.

3. McKim is plaintiff in the matter of *Paul McKim, Individually and Derivatively on behalf of Nominal Defendants Deep Marine Holdings, Inc. and Deep Marine Technology, Inc., v. Nasser Kazeminy, Otto Candies, Jr., John Hudgens, DCC Ventures LLC, Otto Candies LLC, NJK Holding Corporation, Otto Candies III, John Ellingboe, Daniel Erickson, Larry Lenig, Jr., Bruce C. Gilman, Eugene DePalma, and Wade Abadie, Jr.*, Cause No. 2008-64385 in the 129<sup>th</sup> Judicial District of Harris County. In that matter, the Defendants moved for a protective order allowing for the designation of the documents, including the SLC Report, as confidential and/or highly confidential-attorneys' eyes only. McKim opposed this motion. On October 12, 2009, the Honorable Judge Gomez of the 129<sup>th</sup> Judicial District orally granted the protective order.

4. McKim has no objection to the release of the SLC Report, but believes that it is the subject of the Texas trial court's protective order and as such cannot be produced by McKim without a court order.

**Prayer**

WHEREFORE, McKim respectfully requests that the Court enter an Order directing McKim as to the disclosure of the requested materials.

Dated: February 4, 2010

Respectfully submitted,

**HAYNES AND BOONE, LLP**

By: /s/ Peter C. Ruggero

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State Bar No. 00795827  
Sandy D. Hellums  
State Bar No. 24036750  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing motion was served on the parties entitled to receive updates via the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Sandy Hellums  
Sandy Hellums

**CERTIFICATE OF CONFERENCE**

The undersigned counsel conferred with Jason Snyder on February 4, 2010 regarding the relief requested herein and no resolution could be reached.

/s/ Sandy Hellums  
Sandy Hellums

B255 (Form 255 - Subpoena in an Adversary Proceeding) (12/07)

## UNITED STATES BANKRUPTCY COURT

SOUTHERN

District

TEXAS

In re DEEP MARINE HOLDINGS, INC., et al  
DebtorSUBPOENA IN  
AN ADVERSARY PROCEEDINGDEEP MARINE HOLDINGS, INC., et al  
Plaintiff

Case No. \* 09-39313

V.

Chapter

FLI DEEP MARINE LLC, ET AL  
Defendant

To: Paul McKim

Adv. Proc. No. \* 10-3026

☐ YOU ARE COMMANDED to appear in the United States Bankruptcy Court at the place, date, and time specified below to testify in the above adversary proceeding.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above adversary proceeding.

PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

The 2009 report of the Special Committee of Deep Marine Holdings, Inc. and/or Deep Marine Technology Incorporated and any and all documents and communications related to the Special Committee's investigation and report.

PLACE

Houston, Texas

DATE AND TIME

February 4, 2010

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this adversary proceeding that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Rule 30(b)(6), Federal Rules of Civil Procedure, made applicable in adversary proceedings by Rule 7030, Federal Rules of Bankruptcy Procedure.

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR  
PLAINTIFF OR DEFENDANT)*Anthony Paduano*

DATE

Attorney for Defendants

February 3, 2010

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Anthony Paduano, 1251 Avenue of the Americas, 9th Floor, New York, New York 10020

\* If the bankruptcy case or the adversary proceeding is pending in a district other than the district in which the subpoena is issued, state the district under the case number or adversary proceeding number.

EXHIBIT A